

109TH CONGRESS
1ST SESSION

H. R. 3717

To provide construction contractors with qualified immunity from liability for negligence when providing services or equipment on a volunteer basis in response to a declared emergency or disaster.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 2005

Mr. REICHERT (for himself, Mr. GARY G. MILLER of California, Mr. MATHE-
SON, Mr. DANIEL E. LUNGREN of California, and Mrs. KELLY) intro-
duced the following bill; which was referred to the Committee on the Ju-
diary

A BILL

To provide construction contractors with qualified immunity from liability for negligence when providing services or equipment on a volunteer basis in response to a declared emergency or disaster.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Good Samaritan Pro-
5 tection for Construction Volunteers Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) The construction industry provides a valu-
2 able service in times of disasters and emergencies.

3 (2) The construction industry answered the call
4 on September 11, 2001 and the days afterwards to
5 assist in the search, recovery, and cleanup efforts in
6 New York City and Arlington, Virginia.

7 (3) The expertise and equipment brought forth
8 for the search and recovery efforts greatly advanced
9 and improved the efficiency of these efforts.

10 (4) Such efforts by the construction industry
11 make it safer for police, firefighters, and other res-
12 cue workers to work on search and recovery efforts.

13 (5) The services provided by the construction
14 industry improve the safety of the public by the con-
15 tainment/mitigation of conditions that threaten life
16 and property.

17 (6) Construction companies were faced with law
18 suits as a result of their voluntary efforts on behalf
19 of their fellow citizens in New York City.

20 (7) Providing construction contractors qualified
21 immunity from liability when providing services in
22 this type of volunteer activity helps to ensure that
23 such services will be available in the future in times
24 of need.

1 **SEC. 3. PROVISION OF QUALIFIED IMMUNITY FROM LIABIL-**
2 **ITY FOR NEGLIGENCE TO CONSTRUCTION**
3 **ENTITIES WHEN PROVIDING SERVICES OR**
4 **EQUIPMENT ON A VOLUNTEER BASIS IN RE-**
5 **SPONSE TO A DECLARED EMERGENCY OR**
6 **DISASTER.**

7 (a) LIABILITY PROTECTION.—When a construction
8 entity provides emergency construction assistance on a
9 voluntary basis, in good faith, and without expectation of
10 compensation, and the entity or an employee of such entity
11 negligently causes harm, the entity and the employee, if
12 applicable, are not jointly, severally, or individually liable
13 in damages for that harm. Nothing in this section shall
14 be construed as providing immunity for gross negligence
15 or willful misconduct.

16 (b) DEFINITIONS.—In this section:

17 (1) The term “construction entity” means a
18 person, sole proprietorship, partnership, limited li-
19 ability company, or corporation in the regular busi-
20 ness of providing construction assistance.

21 (2) The term “construction assistance” means
22 materials, labor, equipment, or services for construc-
23 tion-related activities, including construction, demoli-
24 tion, repair, clean-up, alteration, and remediation.

25 (3) The term “emergency construction assist-
26 ance” means construction assistance provided—

1 (A) at the direction of a public official act-
2 ing in an official capacity; and

3 (B) in response to or arising out of a de-
4 clared Federal, State, or local emergency or dis-
5 aster, whether the assistance is provided before
6 or after the formal declaration of emergency or
7 disaster.

8 (c) RELATIONSHIP TO STATE LAW.—

9 (1) PREEMPTION.—This section preempts the
10 laws of any State to the extent that such laws are
11 inconsistent with this section, except that it does not
12 preclude a State from providing a higher amount of
13 protection from liability, or from providing reim-
14 bursement for costs or expenses as authorized by
15 State or local law.

16 (2) WORKERS COMPENSATION.—This section
17 does not apply to liability under workers compensa-
18 tion laws.

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